

SUBJECT: Prohibiting sale of human organs

COMMITTEE: Public Health: favorable, without amendment

VOTE: 7 ayes--Wright, Madla, Cooper, Lee, McDonald, Oliver, Schoolcraft
0 nays
2 absent--Short, J. Harris

SENATE VOTE: On motion to suspend on third reading:
28 ayes, 1 nay (Washington)

WITNESSES: For--Alfred Gilchrist, Texas Medical Association
Against--None

DIGEST: This bill would make it a third-degree felony intentionally or knowingly to buy, sell, receive, transfer, offer to buy, or offer to sell any human organ. (A third-degree felony is punishable by imprisonment for two to ten years and a fine of up to \$5,000.) As defined in the bill, human organs include the heart, kidney, liver, lung, pancreas, eye, bone, skin, or any other organ or tissue.

The bill makes three exceptions: for fees paid to physicians or other medical personnel for medical services; for reimbursement of legal and medical expenses incurred by others for the benefit of the recipient of the organ; and for reimbursement of travel and housing expenses and lost wages of the organ donor in connection with the donation of the organ.

SUPPORTERS SAY: Because of new anti-rejection drugs and advances in surgical technique, an unprecedented demand for transplantable human organs has developed. The demand for certain types of organs outstrips the supply of donors by a three-to-one ratio. Meeting this demand in a fair, humane way will require the coordinated efforts of national, state, and local groups that match donors with recipients. However, the new demand could lead to the sale of organs by brokers, who would buy dead bodies, or even parts of living donors, and resell them for a profit.

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SUPPORTERS
SAY:
(continued)

The prospect of profiteering from death and desperation is morally repugnant. This bill would bring Texas into line with federal law, which already prohibits interstate commerce in human organs. If this bill does not pass, poor people could be exploited--lured to sell a kidney, an eye, or a patch of skin in order to finance a house or a car. Without this bill, poor people would also be discriminated against in another way, because if organs were sold, only the rich could afford them, and at the same time donations of organs would decrease.

Although opponents suggest that this bill would interfere with blood banks and blood centers, the House sponsor is preparing an amendment to exempt them (see Notes section).

OPPONENTS
SAY:

This bill is unnecessary. If the current network of nonprofit organ banks and medical facilities linking donors and recipients is not adequate to meet current demand, market forces should be free to expand the supply without government interference.

Because this bill prohibits the sale of any "human organ or tissue," it could interfere with the lawful sale of blood, plasma, and other blood products. All are currently sold to or through for-profit blood centers, and at times some blood products are sold by nonprofit blood banks. These centers perform an important function, providing plasma for research and hemophiliacs. This bill might interfere also with the other operations of nonprofit blood banks, which "receive" blood and blood products, "transfer" them from donors to hospitals, and are reimbursed for processing and shipping expenses.

NOTES:

The House sponsor of SB 33 is expected to offer an amendment that would specifically exempt blood, blood components (including plasma), blood derivatives, and blood reagents from the provisions of the bill. The anticipated amendment would conform to the definition of human organs in the House companion, HB 277.

The 1984 National Organ Transplant Act (P.L. 98-507) prohibits interstate sale or purchase of human organs. Unlike SB 33, the federal act specifically includes corneas and bone marrow in the list of human organs covered, and the federal act limits the number of organs covered to those currently listed or later specified by U.S. Department of Health and Human Services regulations.